In the High Court for the States of Punjab and Haryana, at Chandigarh.

C.R. No. 290 of 2007 (O&M)
Decided on January 18,2007.

Hari Om Verma and another --- Petitioners

vs.

Laxmi Narain Verma and another --- Respondents.

Present: Mr.K.K.Mehta,Advocate, for the petitioners

Pritam Pal,J: (Oral)

This revision by the defendants/petitioners, is directed against order dated December 12,2006,passed by Addl.Civil Judge,(Senior Division),Faridabad, in Civil Suit No.202 of 1999, whereby an application moved under Order 6 Rule 17 of C.P.C. , for inserting following para i the plaint, was allowed:-

> "1 (a) That the Arbitrator was requested to get completed the registration of the Sale deed in favour of the plaintiffs in view of the clause incorporated in the agreement through which the Arbitrator was authorized to do so and the Arbitrator Sh. Yad Ram himself came present before the Sub Registrar, Faridabad and got the sale deed registered in favour of the plaintiffs with the office of S.R. Faridabad, in the presence of parties and the witnesses. The award dated 27.7.1997 passed by Arbitrator Sh. Yad Ram is attached".

The contention of learned counsel for the petitioners is that the learned trial court has illegally allowed the aforesaid amendment against the provisions of Order 6 Rule 17 of C.P.C, which reads as under:-

> "17.Amendment of pleadings.-- The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties.
>
> Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that inspite of due diligence, the party could not have raised the matter before the commencement of trial ".

Here in the instant case, it is not disputed that after institution of the suit, the parties also went in their respective appeals before this Court. Those appeals remained pending for about 4 years and during this period, the proceedings of the suit were kept in abeyance. Ultimately, it was revealed that the aforesaid facts which are now intended to be inserted in the plaint by way of amendment, could not be pleaded. The facts which are now sought to be inserted are matter of records. The evidence of the plaintiff/respondents is yet to be concluded. Moreover, no pre-judice would be caused to the petitioners/defendants by the aforesaid amendment.. Both the parties are related inter-se.

Taking an over all view of the facts and circumstances of the matter in hand, I feel that amendment sought by the plaintiffs would help the parties for determining the real controversy, between them involved in this case. Hence, no interference is called for in this revision petition and the same is hereby dismissed.

January 18,2007 (Pritam Pal)
RR Judge